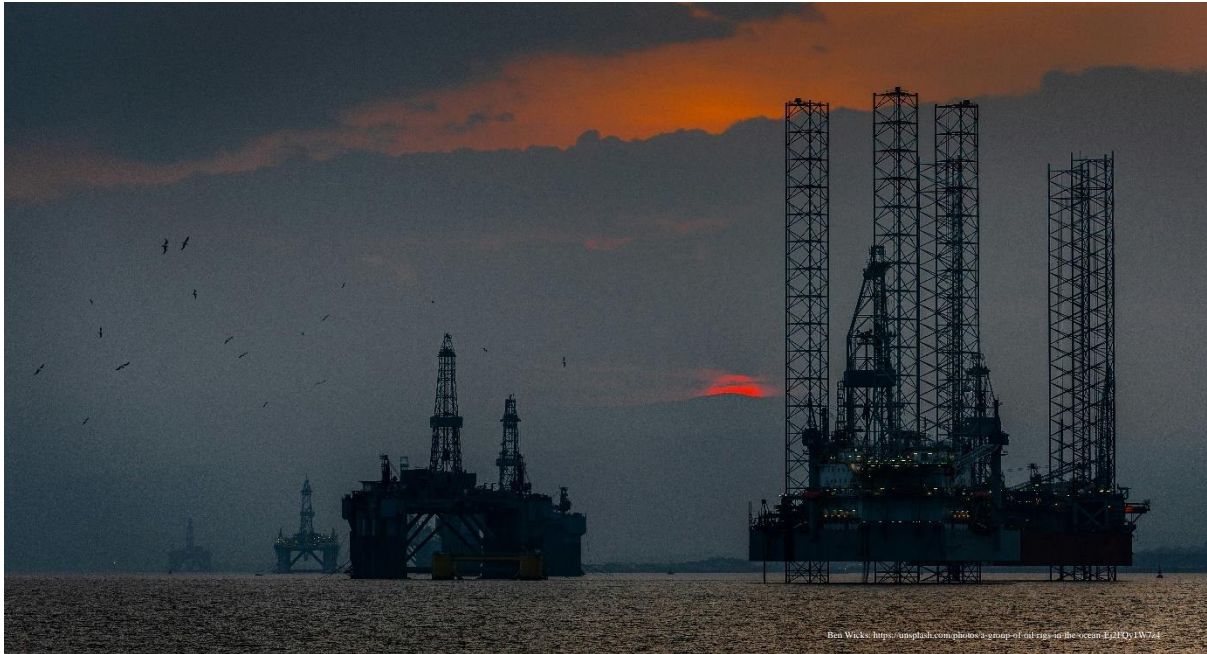




## Client Alert

Draft of Minister of Energy and Mineral Resources Regulation on Preparation, Stipulation, and Offer of Carbon Storage Permit Areas and the Granting and Supervision of Exploration Permit and Carbon Storage Operations Permit



*The Minister of Energy and Mineral Resources intends to issue a new regulation to govern Carbon Storage Permit Areas (CSPA) and the issuance of Exploration Permits (EP) and Carbon Storage Operations Permits (CSOP). This regulation builds on the Presidential Regulation Number 14 of 2024 as well as addresses technical and administrative details for Carbon Capture and Storage projects. It includes provisions for the preparation, stipulation, and offer of CSPAs. Additionally, it sets requirements for obtaining EPs, including timelines, administrative, technical, and financial obligations. In relation to CSOPs, it specifies preparation of work plans, storage fee agreements, royalty payments, and reporting obligations.*

## I. Introduction

The Government of Indonesia is showing its continued effort in putting into effect its comprehensive strategy to reduce carbon emissions to reach domestic net-zero emission target by 2060. As a continuance of the Presidential Regulation Number 14 of 2024 on the Implementation of Carbon Capture and Storage (“**CCS**”) Activities (hereinafter referred to as the “**PR 14/2024**”), the Minister of Energy and Mineral Resources (“**MoEMR**”) is currently aiming to issue a regulation to govern the preparation, stipulation, and offer of Carbon Storage Permit Area(s) (“**CSPA**”) and the granting and supervision of Exploration Permit (“**EP**”) and Carbon Storage Operations Permit (“**CSOP**”) (hereinafter referred to as the “**MoEMR CCS Regulation Draft**”).

The MoEMR CCS Regulation resonates the principles set out under PR 14/2024 while also addressing technical details previously left ambiguous under PR 14/2024. It also contemplates potential incentives for prospective CCS business actors.

Under this publication, it will be explained the several key provisions to be expected from the MoEMR CCS Regulation Draft, such as the preparation and stipulation of CSPA, granting of EP and CSOP, and the relevant legal-administrative matters (e.g., share transfer restriction of CCS-license holders, carbon storage capacity certification). Please note that this publication: (i) is not intended to neglect the importance and the gist of other provisions specified in the MoEMR CCS Regulation Draft; and (ii) may not yield full accuracy—pending formal issuance of the definitive regulation.

There might be certain legal issues that are not covered with the explanations provided hereunder, hence, to get the accurate views and understanding of the current conditions, please contact our legal consultants (the details are provided on the last page).

## II. The Preparation, Stipulation, and Offer of CSPA

Under the MoEMR CCS Regulation Draft, the Director General of Oil and Gas (“**DGOS**”) is delegated the authority to implement the preparation, stipulation, and offering process of CSPA. For this purpose, the DGOS shall then form a CSPA Offering Committee.

### A. The Preparation and Stipulation of CSPA

The preparation stage generally consists of preliminary risk assessment and technical evaluation over the feasibility of the proposed areas to store captured carbon, prior to the stipulation of such areas to be a CSPA. This preparation process is undertaken by the MoEMR based on its own initiative or based on the proposal of the private parties (i.e., business entities and permanent establishments). The key differences between the two (2) mechanisms are outlined below:

Aspect	Based on the Initiative of MoEMR	Based on the Initiative of Private Parties
<b>Eligible Areas</b>	Open areas, coal mining area, work areas of oil and gas activities.	Open areas, coal mining area, work areas of oil and gas activities.
<b>Output</b>	Stipulation of CSPA.	Stipulations of CSPA and CSPA Proposing Entity.
<b>Incentives and Limitations</b>	None identified at this stage.	<ul style="list-style-type: none"> <li>a. Proposed CSPA cannot be areas that are already determined as reserved CSPA by the MoEMR.</li> <li>b. If two (2) parties propose CSPA which overlap: <ul style="list-style-type: none"> <li>i. of more than fifty percent (50%), the CSPA Offering Committee will evaluate the proposals to determine the selected CSPA proposer; or</li> <li>ii. of less than fifty percent (50%), the party who submits the latter proposal shall exclude the overlapping area.</li> </ul> </li> <li>c. The contractors of work areas of oil and gas activities have the priority to submit the</li> </ul>



Aspect	Based on the Initiative of MoEMR	Based on the Initiative of Private Parties
		depleted reservoir and saline aquifer in its work area as a CSPA.

Subsequently, the MoEMR will approve or reject the proposed areas as CSPA after having coordination with the Ministry of Environment and Forestry, Ministry of Agrarians Affairs and Spatial Planning, and the Ministry of Marine Affairs and Fisheries.

## B. The Offering Mechanism of CSPA

CSPA can be offered through tender process or limited selection process. In general, the MoEMR CCS Regulation Draft regulates the following in relation to those processes:

### 1. Eligible Participants

On one hand, the open tender process is open for the business entity or permanent establishment. On the other hand, the limited selection process may only be participated by parties registered in the MoEMR's CCS shortlist. Particularly, the MoEMR's CCS shortlist registration shall be held at least once every year by the DGOS. Moreover, the MoEMR shall determine the shortlisted participants by considering its technical and financial capabilities in CCS operations.

### 2. The Offering Process

The MoEMR, through the CSPA Offering Committee, will issue the bidding documents to be responded by the eligible participants with a "Participating Document" which covers administrative, technical, and financial proposals for the CCS operations in the CSPA (including exploration commitment amount). The participants of the offering process shall also be required to submit a Proposal Security in the amount of a certain percentage from the proposed Exploration Commitment value at the time of issuance of the Participating Document.

### 3. The Awarding Process

The evaluation of the Participating Document by the CSPA Offering Committee will result in the ranking of participants. The DGOS will then submit the ranking result and proposed winner of the offering process for the MoEMR's approval. Upon the MoEMR's approval, the DGOS shall then issue a decree on the determination of award of CSPA to the winner of the offering process, by also requiring, among others:

- a. Application of EP through the Ministry of Investment / Investment Coordinating Board's Online Single Submission System ("OSS").
- b. Submission of Performance Security in the amount of ten percent (10%) of the exploration commitment amount or at least USD1,500,000.- (*one million five hundred thousand US Dollars*), whichever is higher.



#### 4. Right to Match: Incentive for CSPA Proposing Entity

A CSPA Proposing Entity is given a right to match if it is not the first-ranked participant. The CSPA Proposing Entity shall at least match the proposal of the first-ranked participant to be determined as the winner of the offering process.

### III. Exploration Permit

#### A. Requirements for Obtaining EP

According to PR 14/2024, only the winner of a limited selection or tender that will be granted an EP issued by the MoEMR. However, the winner of a limited selection or tender must first fulfill administrative, technical, environmental and financial requirements.

Under the MoEMR CCS Regulation Draft, detailed timelines and procedures for fulfilling the requirements to issue an EP are specified. The application for an EP must be submitted to the MoEMR through the OSS within a specified number of calendar days after the Business Entity or Permanent Establishment is declared the winner of the tender or limited selection for CSPA. If the winner does not submit the application within the specified timeframe, they are considered to have withdrawn.

As a note, there is an anomaly in relation to the administrative requirements for obtaining EP. Specifically, the MoEMR CCS Regulation Draft obliges the winner of tender or limited selection to apply for a Business Identification Number (*Nomor Induk Berusaha*). However, this far, the Standard Classification of Indonesian Business Fields (*Klasifikasi Baku Lapangan Usaha Indonesia*) for CCS/CCUS activities has not yet been established.

#### B. Annual Work Plan and Budget (*Rencana Kerja dan Anggaran Biaya Tahunan / "RKAB"*)

PR 14/2024 specifies that the holder of an EP must submit a RKAB as a commitment to explore target injection zones which requires approval from the MoEMR. The MoEMR CCS Regulation Draft provides additional details on this process. The regulation mandates that the EP holders must submit the RKAB no later than thirty (30) calendar days from the issuance of the EP. The regulation also requires the EP holders to provide written reports on the implementation of the RKAB for exploration activities to the MoEMR.

Moreover, the EP holders have the option to request changes to the RKAB within the current year, provided that such changes do not diminish the value or alter the type of firm commitment to explore target injection zones. Changes to the RKAB can be requested by the EP holders in cases of force majeure, circumstances that impede operations, or environmental carrying capacity limitations. Furthermore, if changes to the exploration activities result in alterations to existing environmental approval scopes, the EP holders must obtain environmental approval from the relevant minister responsible for environmental governance.

#### C. Shares Transfer

In terms of shares transfer, the transfer of the majority of shares in a business entity holding an EP may be performed after obtaining prior approval from the MoEMR subsequent to the fulfillment of exploration commitment. To obtain the approval, the business entity shall submit an application to the designated online system for further assessment by the MoEMR.



#### IV. Carbon Storage Operations Permit

PR 14/2024 has outlined the key provisions regarding the entities entitled to obtain a CSOP as well as the procedures and requirements for obtaining CSOP. The following points constitute further regulations related to the CSOP under the MoEMR CCS Regulation Draft, among others:

1. The preparation of the CSOP RKAB for annual CCS operation activities must include a work plan and budget for activities such as: procurement, construction of injection facilities and supporting facilities, the drilling for injection, commissioning, injection, maintenance, monitoring, MRV (Measurement, Reporting, and Verification), closure, and other activities related to the aforementioned work plan.
2. The CSOP holder may submit changes to the RKAB during the year in case of force majeure, obstructive circumstances, and/or when the environmental carrying capacity cannot support the storage operation activities. If there are changes in storage operation activities that result in changes to the scope of the existing environmental approval, the CSOP holder must obtain environmental approval from the minister responsible for environmental governance.
3. The CSOP holder must submit regular and/or incidental reports on the implementation of storage operation activities.
4. The majority of shares of the CSOP holder can be transferred after obtaining approval from the MoEMR who will first consider the continuity of safe and permanent carbon storage operations in accordance with the provisions of the CSOP.
5. Moreover, the CSOP holder is entitled to storage fee, the amount of which shall be agreed upon and outlined in the service agreement between the CSOP holder and the party emitting or handing over the carbon emissions for injection activities. It is noteworthy that such service agreement shall obtain the approval of MoEMR. Additionally, the CSOP holder has the obligation to pay royalty from the storage fee, which is considered as a non-tax state revenue, to the Indonesian government.

#### V. Other Relevant Matters Regulated under the MoEMR CCS Regulation Draft

##### A. Carbon Pricing

The implementation of carbon pricing (*nilai ekonomi karbon*) in the CCS framework by way of voluntary carbon market follows those of the existing Indonesian laws and regulations on carbon pricing, which may include, among others: (i) Presidential Regulation Number 98 of 2021 on the Implementation of Carbon Economic Value to Achieve Nationally Determined Contribution Targets and Control over Greenhouse Gas Emissions in Relation to National Development; and (ii) Minister of Environment and Forestry Regulation Number 21 of 2022 on the Procedures for Carbon Pricing Implementation.

##### B. Storage Fee and Royalty

The MoEMR CCS Regulation Draft provides an obligation for the CSOP holder to pay royalty from the storage fee (as a non-tax state revenue). In contrast, there is no obligation imposed on the contractors of work areas of oil and gas activities to pay royalty from the storage fee.

We will continue to follow the developments of this topic. Should you have any queries on this topic, please contact our consultants



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